

§ 301.6334-3

26 CFR Ch. I (4-1-03 Edition)

C's wages is exempt from levy and O Corporation may rely on such notification; in the absence of such notification O Corporation must treat \$101.92 as exempt from levy.

(2) *Where sources not levied upon are less than exempt amount.* If the taxpayer's income upon which the district director does not levy is less than the amount to which the taxpayer is entitled as exempt from levy, then an additional amount, determined to be exempt from levy pursuant to § 301.6334-3, may be paid to the taxpayer from the sources of wages, salary, or other income upon which levy has been made. In such a case, the district director must designate those wages, salary, or other income from which the exempt amount is to be paid to the taxpayer, and must notify the employer or other person upon whom the levy is served of the amount of the taxpayer's wages, salary, or other income that is exempt from levy. The employer or other person may rely on such notification in paying over amounts pursuant to the levy. In the absence of such notification from the district director, the employer or other person upon whom the levy is served must determine the amount exempt from levy pursuant to § 301.6334-3 as if that employer or other person upon whom the levy is served is the only source of wages, salary, or other income. Amounts not exempt from levy are to be paid to the district director in accordance with the terms of the levy. The provisions of this paragraph (c)(2) may be illustrated by the following example:

Example. Delinquent taxpayer C is an employee of O Corporation and is paid wages totalling \$50 on Friday of each week. C also performs services for P Corporation and is paid a salary of \$75 on Friday of each week. On Tuesday, February 20, 1990, a levy is served on P Corporation with respect to the wages and salary of C. C's filing status is single and C is entitled to 1 personal exemption. Under § 301.6334-3, C is entitled to an exemption from levy under section 6334(a)(9) totalling \$101.92 for each weekly pay period. The district director may notify P Corporation that only \$51.92 of C's wages is exempt from levy and P Corporation may rely on such notification; in the absence of such notification, P Corporation must treat the entire \$75 salary as exempt from levy.

(d) *Effective date.* These provisions are effective with respect to levies made on

or after July 1, 1989. However, any reasonable attempt by a taxpayer to comply with the statutory amendments addressed by these regulations prior to February 21, 1995 will be considered as meeting the requirements of these regulations.

[T.D. 8568, 59 FR 53088, Oct. 21, 1994]

§ 301.6334-3 Determination of exempt amount.

(a) *Individuals paid on weekly basis.* In the case of any individual who is paid or receives all of his or her wages, salary, and other income on a weekly basis, the amount of wages, salary, and other income payable to or received by him or her during any week that is exempt from levy under section 6334(a)(9) is the exempt amount.

(b) *Term defined.* The term *exempt amount* means an amount equal to—

(1) The sum of—

(i) The standard deduction (including additional standard deductions on account of age or blindness); and

(ii) The aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which such levy occurs;

(2) Divided by 52.

(c) *Written and properly verified statement.* Unless the taxpayer submits to the employer for forwarding to the district director a written and properly verified statement (as described in § 301.6334-4) specifying the facts necessary to determine the proper amount under paragraphs (b)(1) (i) and (ii) of this section, paragraphs (b)(1) (i) and (ii) of this section must be applied as if the taxpayer were a married individual filing a separate return with only 1 personal exemption.

(d) *Individuals paid on basis other than weekly—*(1) *In general.* In the case of an individual who is paid or receives wages, salary, and other income other than on a weekly basis, the amount payable to that individual during any applicable pay period that is exempt from levy under section 6334(a)(9) is the amount that as nearly as possible will result in the same total exemption from levy for such individual over that period of time other than weekly as that to which the individual would have been entitled under paragraph (b)

of this section if, during such period of time, the individual were paid or received such wages, salary, and other income on a regular weekly basis.

(2) *Specific pay periods other than weekly.* In the case of wages, salary, or other income paid to an individual on the basis of an established calendar period regularly used by the employer or other person levied upon for payroll or payment purposes, the exempt amount of wages, salary, and other income payable to or received by an individual during an applicable pay period other than weekly equals—

(i) The sum of—

(A) The standard deduction (including additional standard deductions on account of age or blindness); and

(B) The aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which such levy occurs;

(ii) Divided by—

(A) 260 in the case of a daily pay period;

(B) 26 in the case of a bi-weekly pay period;

(C) 24 in the case of a semi-monthly pay period; and

(D) 12 in the case of a monthly pay period.

(3) *Nonspecific pay periods.* In the case of wages, salary, or other income paid to an individual on a one-time or a recurrent but irregular basis and which is not paid on the basis of an established calendar period regularly used by the employer or other person levied upon for payroll or payment purposes, the exempt amount of wages, salary, and other income payable to or received by an individual equals the exempt amount defined in paragraph (b) of this section multiplied by the number (but not more than 52) of full weeks (consisting of seven calendar days) to which such payment is attributable. The provisions of this paragraph (d)(3) may be illustrated by the following example:

Example. Taxpayer A's exempt amount per week (as determined under paragraph (b) of this section) is \$100. Taxpayer A is hired by Corporation X to perform a specific task for Corporation X at a flat fee of \$1,500 which is to be paid at the completion of the task. Taxpayer A completes the task in 10 weeks.

The total exempt amount is \$1,000 and \$500 is subject to levy.

(e) *Levies continuing into following years.* The exempt amount is computed on the basis of the standard deduction (including additional standard deductions on account of age or blindness) for the taxpayer's filing status and the amount of the deduction for a personal exemption in effect in the taxable year in which the original notice of levy is served. Unless the taxpayer submits a new verified statement in accordance with § 301.6334-4, the exempt amount remains the same for pay periods following the pay period in which the notice of levy is served even if there is a change in the taxpayer's factual situation or a change by operation of law (such as by indexing or otherwise) to the standard deduction or personal exemption amounts.

(f) *Effective date.* These provisions are effective with respect to levies made on or after July 1, 1989. However, any reasonable attempt by a taxpayer to comply with the statutory amendments addressed by these regulations prior to February 21, 1995 will be considered as meeting the requirements of these regulations.

[T.D. 8568, 59 FR 53089, Oct. 21, 1994]

§ 301.6334-4 Verified statements.

(a) *In general.* For purposes of §§ 301.6334-2 and 301.6334-3, the amount of wages, salary, or other income that is exempt from levy must be determined on the basis of a written and properly verified statement submitted by the taxpayer to his or her employer for submission to the district director specifying the facts necessary to determine the standard deduction and the aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which the levy is served. In the absence of submission of such statement, the amount that is exempt from levy must be determined as if the taxpayer were a married individual filing a separate return with only 1 personal exemption.

(b) *Content of statement.* The statement in paragraph (a) of this section must be a written statement signed